

SUBCOMMITTEE NO. 2

Agenda

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Upon Adjournment of Session
Room 112

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Resources—Environmental Protection—Energy

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Vote Only Agenda

3600 Department of Fish and Game

1. Technical Bond Issue

April Finance Letter. The Governor has submitted an April Finance letter requesting an amendment to the budget reducing DFG's Proposition 40 bond funds by \$1 million. These funds were inadvertently included in the Governor's budget. This reduction does not impact any of the department's programs.

Staff Recommendation. Staff recommends that the Subcommittee approve the amendments proposed in the Governor's April Finance letters.

3860 Department of Water Resources

1. California Energy Resources Scheduling—Pro Rata

Previous Subcommittee Action. At the April 18 meeting of the Subcommittee, the \$47.4 million administrative budget for the California Energy Resources Scheduling (CERS) division of the Department of Water Resources (DWR) was approved. The CERS division is supported by revenues from the Electric Power Fund.

April Finance Letter. The April Finance letter proposes to reduce the DWR CERS administrative budget by \$15 million from the Electric Power Fund to adjust the pro rata assessment. (Pro rata is charged to all special funds to support activities of the state control agencies, the Department of Finance, State Controller, etc.)

Staff Recommendation. Staff recommends that the Subcommittee approve the amendments proposed in the Governor's April Finance letters.

2. Integrated Regional Water Management Grant Program

Governor's Budget. The budget includes \$47.9 million in Proposition 50 bond funds for the second round of Integrated Regional Water Management grants for projects.

Previous Subcommittee Direction. At the April 25 meeting of the Subcommittee, action was withheld on these funds so that staff could evaluate the role of this program in funding the CALFED program under the California Bay-Delta Authority's current two-year financing plan.

Staff Recommendation. Staff has evaluated the role of the program in funding the CALFED program and recommends that the Subcommittee approve funding for the second round of Integrated Regional Water Management grants.

3. Desalination Grant Program

Governor's Budget. The budget includes \$21.3 million for the second round of grants that will fund feasibility studies and assist in the construction of projects for desalination of ocean or brackish waters.

Previous Subcommittee Direction. At the April 25 meeting of the Subcommittee, action was withheld on these funds so that staff could evaluate the role of this program in funding the CALFED program under the California Bay-Delta Authority's current two-year financing plan.

Staff Recommendation. Staff has evaluated the role of this program in funding the CALFED program and recommends that the Subcommittee approve funding for the second round of desalination grants.

3900 Air Resources Board

1. Haagen-Smit Laboratory Seismic Upgrades

Background. The Haagen-Smit Laboratory in El Monte, California. The site of a large portion of the board's emission testing activities.

April Finance Letter. The letter proposes \$103,000 from the Air Pollution Control Fund to fund preliminary plans for seismic retrofit improvements to the Haagen-Smit Laboratory in El Monte, California. The Department of General Services recently conducted a seismic evaluation and found that this building was extremely vulnerable to structural damage in the event of an earthquake.

Staff Recommendation. Staff recommends that the Subcommittee approve the April Finance letter proposal.

3960 Department of Toxic Substances Control

1. Stringfellow Pretreatment Plant

Background. The Stringfellow Hazardous Waste site is a former Class I landfill that has been closed. Pretreatment of contaminated groundwater is required before it is discharged into the industrial sewer to meet effluent quality standards. The existing pretreatment plant was constructed in 1985 as an interim plant, intended to last three to five years, and is past its useful life.

April Finance Letter. The letter proposes \$3.1 million in General Fund monies to support preliminary plans for the construction of a new pretreatment plant to treat contaminated

groundwater from the Stringfellow Hazardous Waste site. This activity will not result in General Fund appropriations beyond those already included in the Governor's budget or in prior budget appropriations. Specifically, to fund this proposal, the administration proposes to reappropriate \$2 million in General Fund monies from previous appropriations that have not been expended. The remainder (\$1.1 million) is proposed to be redirected from the department's state operations budget to support Stringfellow management.

Staff Recommendation. Staff recommends that the Subcommittee approve the April Finance letter proposal.

7300 **Agricultural Labor Relations Board**

1. **Re-Establish Vacant Positions**

April Finance Letter. The letter proposes to re-establish two positions at the board that have been vacant for more than six months. These positions would be eliminated by Government Code 12439 which requires that positions that are vacant for more than six months be abolished. The proposal seeks to re-establish legal staff at the Salinas Regional Office and an analyst position at the ALRB headquarters.

The legal staff positions at the Salinas Regional Office have been hard to fill given the nature of the work and the location of the office. The board has not been actively trying to fill the analyst position at headquarters and tried, instead, an interagency agreement with EDD to fulfill certain administrative functions. This interagency agreement has not worked out and the board has decided to actively recruit to fill this position. The administration finds that these positions are needed to carry out the mandates of the board.

Staff Recommendation. Staff recommends that the Subcommittee approve the April Finance letter proposal.

8570 **California Department of Food and Agriculture**

1. **Position Management**

Background. The LAO, in its 2004-05 Analysis, found that CDFA's management of its budgeted positions deviated significantly from standard state administrative procedures. Nearly half of CDFA's positions were created at the discretion of the department and without approval of the Legislature or the Department of Finance. As part of the 2004-05 budget process, trailer bill language was enacted that required the department to conform to standard administrative procedures in creating and managing its positions. In addition, the department was required to report to the Legislature by January 10, 2005, on these positions, including providing a description of the workload associated with the positions.

Governor's Budget. The department has established all of its positions through the normal state administrative procedures.

Previous Subcommittee Meeting. At the March 14 meeting of this Subcommittee, the Subcommittee withheld action on the department's Agriculture Fund budget until a report was submitted describing the workload associated with the positions established under normal state administrative practices.

Report Submitted. The department submitted a report that described the workload associated with the 484 positions that were established under normal state administrative practices in 2004. The report indicates that these positions were dedicated to the following activities:

- **Executive and Management.** 26 positions support executive and management services, which include positions that support priority and policy setting efforts of the Secretary's office.
- **Administrative Services.** 21 positions support administrative services, which include fiscal operations, personnel management, data processing, and general operations of the department.
- **Pierce's Disease Control Program.** 34 positions support the Pierce's Disease Control Program, which is a statewide program partially funded by an assessment on the grape industry to control the statewide impact of Pierce's disease.
- **Division of Animal Health and Food Safety Services.** 54 positions support the division of animal health and food safety services, which includes the state veterinarian as well as other positions that assure the safety, availability and affordability of agriculture products in California.
- **Division of Plant Health and Pest Prevention Services.** 39 positions support the division of plant health and pest prevention services, which protects California from damage caused by the introduction and spread of harmful plant pests.
- **Division of Marketing Services.** 106 positions support the division of marketing services, which promotes California food and agriculture products through research, marketing, and technical assistance to growers.
- **Division of Inspection Services.** 156 positions support the division of inspection services, which conducts a variety of voluntary and regulatory programs that ensure food safety.
- **Division of Measurements and Standards.** 39 positions support the division of measurements and standards, which ensures that commercial transactions based on weigh master certificates are accurate.
- **Division of Fairs and Expositions.** 1 position supports contract oversight for the division of fairs and expositions, which provides fiscal and policy oversight to the state's network of fairs and expositions.
- **Agricultural Export Program.** 2 positions support activities that strengthen and expand California's agricultural exports.
- **Office of Agriculture and Environmental Stewardship.** 3 positions support the department's office to support and enhance agriculture in conserving and protecting natural resources.
- **Grant Management Program.** 3 positions support the administration of specialty crop grant funds received from the federal government.

The LAO has found that this report satisfies the reporting requirements. Staff finds that the information provided by the department will be very helpful in evaluating the staffing needs of the department in the future.

Staff Recommendation. Staff recommends that the Subcommittee approve the Agriculture fund budget as proposed.

2. Milk and Dairy Food Safety Compliance Program

Background. The department regulates the milk and dairy food industries to ensure compliance with state and federally required inspection and enforcement to ensure that products are sanitary and free of illegal drug residues. This program includes enforcing on-farm compliance, antibiotic residue investigations, and mandatory evaluation and training requirements for licensed milk samplers.

The dairy industry has grown over the past several years and the department has fallen out of compliance with federal Food and Drug Administration inspection requirements. Several pieces of legislation (AB 3045, AB 3046, and AB 2916), have authorized additional fees for these activities, including increased assessments on dairy farmers out of compliance and increased fees on licenses issued to milk samplers and milk processors.

Governor's Budget. The budget proposes \$1.1 million from the various fee revenues (deposited in the Agriculture Fund) increased by legislation in the current year to augment the department's milk and dairy food safety compliance program. Approximately \$1 million of the funds are proposed as an ongoing augmentation to the department's program to support 5 new positions to increase inspection activities and bring the department's program back into compliance with federal regulations. One-time funds are proposed to replace outdated inspection vehicles and computer equipment.

April Finance Letter. The letter proposes \$17,000 from the Agriculture Fund to fund a price increase not included in the Governor's January 10 proposal to augment the Milk and Dairy Food Safety Compliance program.

Staff Recommendation. No issues have been raised with this proposal. Staff recommends that the Subcommittee approve the budget change proposal and April Finance letter.

0555 Secretary for Cal-EPA

1. Hydrogen Highways

Background. On April 20, 2004, Governor Schwarzenegger signed Executive Order S-7-04 (EO) describing his administration's commitment to "achieving a clean energy and transportation future based on the rapid commercialization of hydrogen and fuel cell technologies". In response to the EO, the California Hydrogen Highway Network Blueprint Plan (Plan) was developed by five teams that included approximately 200 representatives from both the private and public sectors.

The administration is also sponsoring a bill related to this subject. Senate Bill 250 (Campbell) classifies hydrogen as a transportation fuel and directs the California Department of Food and Agriculture's Division of Measurement Standards to develop interim specifications for hydrogen transportation fuel. This bill passed out of the Senate Committee on Environmental Quality on April 25 and was referred to the Senate Committee on Transportation and Housing.

A number of other states have initiated support for hydrogen technology in the form of tax breaks for manufacturers, tax incentives for buyers, research grants, and low-cost loans to fund job creation, research grants, and worker training. These efforts have been funded through rate payer surcharges, bonds, and general taxpayer funds.

April Finance Letter. The Governor has submitted an April Finance letter requesting an increase in the Air Resources Board's budget by \$12.2 million and the Secretary for Environmental Protection by \$154,000 to support the implementation of the Hydrogen Highway Network Blueprint Plan. Approximately \$6.9 million comes from the Motor Vehicle Account and \$5.5 million comes from the Energy Resources Programs Account (funded by a surcharge on the sale of electricity).

Specifically, the funds will support \$9.5 million in incentive grants, \$1 million in contracts and \$1.4 million to support 15 positions to start the first phase of implementation of the Hydrogen Highway Network Blueprint Plan. The Plan eventually calls for 50 to 100 hydrogen fueling stations in California, along with support for the deployment of hydrogen vehicles and a biennial progress review.

The incentive grants will be used to provide 50% cost shares with private entities to build 11 hydrogen fueling stations. Each station will cost approximately \$1 million. Additionally, incentive grants will provide up to \$4 million for individual \$10,000 subsidies toward the purchase of a hydrogen vehicle. A hydrogen fuel cell vehicle currently costs approximately \$1 million and there are approximately 100 vehicles in California. The administration expects that the number of fuel cell vehicles will increase to about 300 over the next one to two years.

The staff and contract funding will be used to support the following activities: formalizing public private partnerships, developing appropriate codes and standards, siting potential hydrogen fueling stations, implementing the vehicle subsidy, public education, and hydrogen use research.

Concerns with the Governor's Proposal. The Governor's plan to lessen California's dependence on fossil fuels is laudable, but faces barriers to implementation that extend beyond the availability of funding. Though the blueprint is detailed, certain information has not yet been fully vetted. These issues are outlined below:

- **Vehicle Incentives.** It is unclear whether the vehicle subsidies will be provided to the buyer or to the manufacturer. Moreover, it is unclear that a \$10,000 subsidy on a \$1,000,000 vehicle provides much incentive. The administration has indicated that the vehicle incentives represent a "good faith" effort on the part of California to invest in Hydrogen power vehicles.
- **Co-funding of Hydrogen Network Stations.** The April Finance letter proposes co-funding up to 11 Hydrogen fueling stations throughout the state. For each station, California will contribute approximately \$500,000. The details of the sharing arrangement have not been finalized. The ownership of the station and research developed by the station are unclear. In addition, California's responsibility for any negative effects of the station has yet to be delineated.
- **Timing for Implementation.** Though there are a number of other states investing in Hydrogen technology, affordable, reliable hydrogen vehicles have not been developed. There is considerable dispute in the scientific community over when such technology will be developed. At this point, the reality of a hydrogen highway is burdened by both technological feasibility and economic realities. The administration has indicated that the hydrogen fueling stations ultimately utilized by the commercially available hydrogen cars in the future may use significantly different technology than those available today. Raising the question of whether the state should invest in the construction of fueling stations that will not necessarily be compatible with hydrogen vehicles being developed in the future.
- **Environmental Benefits.** Most hydrogen created today will be created through the utilization of natural gas. Though the Plan will use renewable energy at a rate greater than the RPS requires, the vision of zero emissions – from the production to the use of the Hydrogen – is not viable at this time.

LAO Concerns. The LAO has raised concerns with the administration's plan to establish a hydrogen highway program through the budget process. The LAO indicates that the Legislature has not authorized this project through the normal policy committee process and recommends that legislation be enacted prior to approving funding for this activity. Senate Bill 250 (Campbell) could be used to establish such a program, but it is currently moving through the legislative process.

Staff Comments. Given the long-term nature of this project, staff finds that it may be best to delay implementation of some parts of this plan. Furthermore, the Energy Resources Program Account funds proposed to be expended on this activity are General Fund fungible and could be used for other legislative priorities.

Staff Recommendation. Staff recommends that the Subcommittee direct staff, the LAO and the administration to work on developing a compromise proposal that furthers the development of Hydrogen fuels in the budget year. This proposal should address concerns raised in the analysis,

focus on important first steps and include legislation guiding the implementation of the blueprint plan.

3110 Tahoe Regional Planning Authority

1. Salary Adjustments

Governor's Budget. The budget includes a \$176,000 increase from the Environmental License Plate Fund to fund an 8 percent increase in salaries at the Tahoe Regional Planning Authority. This increase is needed so that the agency can keep pace with other state agency salary increases made over the last several years.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee, the Authority was directed to provide additional information on why the proposed increases in salaries could not be funded from salary savings.

Department Response. The Agency has indicated that it has been operating with less than a 2 percent vacancy rate, which means that additional salary savings are not available. Furthermore, the Agency has provided additional information indicating that staffing turnover has been a significant problem and that uncompetitive salary levels is one of the factors impacting the Agency's high turnover.

Staff Recommendation. Staff recommends that the Subcommittee approve the Agency's budget proposal to increase salaries by 8 percent.

3340 California Conservation Corps

1. Collins-Dugan Reimbursement Account

Governor's Budget. The budget proposes expenditures of \$31.7 million from the Collins-Dugan Reimbursement Account. The proposed level of Collins-Dugan Account expenditures is projected to leave the account with a reserve of \$15.8 million—or about 50 percent of proposed expenditures—at the end of 2005-06.

The budget proposes to increase expenditures from the Collins-Dugan Reimbursement Account by \$3.3 million in the budget year. These funds are proposed to restore funding for the Corps' residential center in Ukiah and statewide evening education and training programs. Funding for the Ukiah facility and programs were reduced significantly in the last several years due to General Fund reductions. Approximately 34 positions (14 for the Ukiah facility) are proposed to be restored, funded by the proposed increase in funding from the Collins-Dugan Reimbursement Account.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee, the Corps budget was held open pending additional justification of the Corps Collins-Dugan Reimbursement Account proposal. Specifically, the Corps was directed to address the large balance proposed to be left in this account at the end of the budget year. The LAO proposes using this reserve to fund the Corps in the budget year, thereby creating one-time General Fund savings.

Department Response. The department has found that the fund condition statement included in the budget is incorrect. The department has advised staff that the revised Collins-Dugan Reimbursement Account balance for 2004-05 is estimated to be approximately \$10.4 million. This is \$6.8 million less than the \$17.2 million estimated in the budget and reduces the fund balance projected for the budget year to \$3.7 million instead of the \$15.8 million shown in the Governor's budget.

The Corps indicates that fewer revenues were received in the current year due to lower than projected corpsmember counts. Furthermore, some General Fund reductions were not fully implemented until March 2005 and Collins-Dugan Reimbursement Account revenues were being used to support activities that had previously been supported by the General Fund.

LAO Update. The LAO finds that the revised fund condition put forward by the department is more reflective of reality. However, the LAO has indicated that the Corps continues to rely on optimistic assumptions regarding reimbursement rates for Corp activities. Therefore, the LAO has recommended adopting supplemental report language to provide the Legislature with additional information on actual financial performance so that adjustments can be made to the department's budget, if needed, to better reflect reality. The LAO also recommends adopting supplemental report language that would correct, for the record, the erroneous fund condition statement presented in the Governor's January 10 budget.

Staff Recommendation. Staff recommends that the Subcommittee adopt the Collins-Dugan Reimbursement Account proposal and the LAO's proposed supplemental report language.

3540 Department of Forestry and Fire Protection

1. Funding for Fire Protection Equipment and Services

Governor's Budget. The budget proposes \$10.8 million in General Fund monies to replace fire engines and eleven firefighting helicopters. This augmentation is proposed as an ongoing augmentation to the \$6.8 million baseline funding for fleet replacement. The augmentation would increase the fleet replacement budget by over 150 percent.

Previous Subcommittee Direction. At the April 18 meeting of the Subcommittee, the department was directed to provide additional information to staff regarding how the proposed augmentation would address the department's backlog in replacing fire protection equipment. At this meeting, the Subcommittee adopted budget bill language directing the department to study

their helicopter requirements and options for financing replacements to the department's current air fleet.

Department Response. The department has provided staff with additional information on its existing backlog in replacing fire protection equipment. The department's backlog of equipment that is past its useful life is valued at approximately \$58 million (not including the department's air fleet). The department's analysis indicates that if the department expends approximately \$17.1 million annually on equipment replacement, it would eliminate its backlog of old ground equipment by 2013-14. This analysis does not include assumptions about inflation, loss or damage of equipment in fire events, or the replacement of the department's aging helicopter fleet. Staff finds that this analysis is sufficient to justify the augmentation requested.

Furthermore, the department has indicated that it plans on spending the bulk of its equipment budget on the replacement of fire engines over the next three years. The department has indicated that it would need to start replacing its aging helicopter fleet starting in 2008-09. Therefore, if the department started purchasing helicopters in 2008-09, the department would not stay on schedule to reduce its backlog of fire engines by 2013-14. The department estimates that new helicopters will cost approximately \$10 million each and has indicated that military surplus helicopters are not likely to be available as they have been in the past.

Additional Detail for Future Years. The staff finds that the additional detail on equipment that is proposed to be replaced in the budget year is helpful. In the past, the department has provided less detail as part of the Governor's budget. The department has indicated that it could provide the additional detail about actual and proposed equipment purchases as part of the Governor's budget. The LAO has drafted compromise supplemental report language that is agreeable to the department.

Staff Recommendation. Staff recommends that the Subcommittee:

- Approve the department's \$10.8 million General Fund proposal to replace old fire equipment; and
- Approve LAO compromise supplemental report language requiring the department to provide additional detail on the department's actual and proposed equipment purchases annually as part of the Governor's budget.

3560 State Lands Commission

1. Oil Spill Prevention and Response Program

Governor's Budget. The Governor's budget proposes to expend \$32 million from the Oil Spill Prevention Administration Fund (OSPAPF) in the budget year. Approximately \$9 million is proposed for expenditure by the State Lands Commission (SLC) and \$21.5 million by the Department of Fish and Game (DFG). The administration is proposing two augmentations to SLC's program for the budget year:

- \$100,000 to monitor oil and gas seeps and develop containment and recovery programs to reduce air emissions and offshore pollution.
- \$499,000 and 4 positions to enable SLC to do comprehensive audits of oil and gas facilities every 3-5 years.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee, action was withheld on the commission's Oil Spill Prevention and Response program until additional information was received regarding the specific recommendations made by a recent DOF audit of the program, including DFG's activities.

Staff Comments. After further review of the audit, staff has determined that the majority of the issues related to administration of the OSPAF are related to activities at DFG. These issues will be addressed in DFG's budget.

Staff Recommendation. Staff recommends that the Subcommittee approve the commission's proposals funded by OSPAF.

2. Tidelands Oil Revenues

Background. During the 2004 budget negotiations, staff found that the administration's estimates for tidelands oil revenues were far below what was anticipated due to higher than expected oil prices. The Governor proposed to sweep all of the tidelands oil revenues into the General Fund instead of allocating these funds to the resource priorities set in statute. The Legislature enacted a compromise position that shifted some money to the General Fund, but shifted additional revenues to other resource priorities. The 2004-05 budget allocated tidelands oil revenues in the following order:

- \$500,000 to the Marine Life Protection Act;
- \$165 million to the General Fund;
- \$10 million to ocean projects and \$2.7 million to parks projects in the City of Los Angeles;
- \$6.5 million for salmon and steelhead restoration;
- \$1.5 million for environmental review of stream flow requirements on mid-California coastal streams; and
- \$4 million for fish hatchery operations.

Previous Subcommittee Direction. At the March 14 meeting of the Subcommittee, budget bill language was adopted to extend the liquidation period for appropriations of tidelands oil revenues made in the 2004-05 budget.

Revenue Update. Thus far, tidelands oil revenues that have been received have covered only the \$500,000 for the Marine Life Protection Act and \$140 million to the General Fund. The other allocations have not been made because sufficient revenues have not been received. The Commission estimates that \$5-8 million may be available to fund ocean projects and park projects in the City of Los Angeles. However, no other allocations will be likely.

City of Long Beach Deductions. One reason adequate revenues have not been received stems from deductions made by the City of Long Beach from payments to the state for tidelands oil. These funds are being deducted by Long Beach to fund future cleanup and abatement of oil production in San Pedro Bay. On March 30, 2005, the California Supreme Court denied hearing the state's case against the City of Long Beach related to the deductions. Given this decision, the City of Long Beach has indicated that it will begin again to deduct payments from tideland oil payments to the state. The City has indicated that it will deduct approximately \$4 million monthly to catch up for the months when the court ordered the collections to end. The City of Long Beach currently has on deposit approximately \$80 million in tidelands oil revenues that were previously deducted from payments to the state.

Statutory Changes Could Halt Long Beach Deductions. Staff has been advised that statutory changes could be made that would clarify current law and require the City of Long Beach to return funds that were deducted from tideland oil payments to the state. Amendments to state law could also prohibit future deductions by the city. If language such as this were to be adopted, additional funds would be available for priorities specified by the Legislature in the current year. Since the Governor's budget proposes to transfer all revenues received in the budget year to the General Fund, this language would also increase General Fund revenues.

Tidelands Allocations to Expire. Current law requires that state tideland oil revenues be allocated to various activities. The Governor's budget proposes to suspend current law and sweep these revenues to the General Fund. Therefore, if the Subcommittee decided to delete the provision of the budget that suspends current law, tideland oil revenues would fund the following priorities:

- The first \$8 million to be deposited in the Salmon and Steelhead Trout Restoration Account for expenditures by the Department of Fish and Game (DFG) for the recovery of salmon and steelhead trout.
- The next \$2.2 million to go to the Marine Life and Marine Reserve Management Account for expenditure by DFG for marine life management.
- The next \$10 million to be deposited in the State Parks Deferred Maintenance Account for expenditure by the Department of Parks and Recreation for deferred maintenance expenses.
- Finally, any remaining money is then deposited in the Natural Resources Infrastructure Fund. These funds are used for: (1) environmental review and monitoring by DFG, (2) Natural Community Conservation Plan acquisitions, (3) Habitat Conservation Fund funding requirements, and (4) non-point source pollution control programs. Funds not appropriated to these priorities are available to be spent generally on natural and recreational resources.

The allocations listed above are set forth in a statute that is set to expire at the end of the budget year. If this statute is allowed to expire, tidelands oil revenues will automatically be swept into the General Fund. Senate Bill 1086 (Migden) would extend the sunset of allocations set in current law for five more years.

Staff Recommendation. Staff recommends that the Subcommittee withhold action on the allocation of tidelands oil revenues for the budget year, including making statutory changes to

extend current allocations until after the May Revision. Staff also recommends that the Subcommittee direct staff to evaluate impacts of enacting legislation that would halt the City of Long Beach's deductions, including impacts on the City of Long Beach.

3760 State Coastal Conservancy

1. Fish Passage Barrier Study

Background. The State Coastal Conservancy has gathered extensive information on barriers to migratory fish passage in California's coastal watersheds. However, tremendous gaps in the data still exist. Of the 13,000 coastal fish passage assessment sites, approximately 9,000 need further evaluation. The Conservancy and other agencies are continuing to analyze this data and to implement projects remediating some of the highest priority barriers.

The Department of Transportation (Caltrans), which owns over 200,000 culverts statewide, has a 2005-06 budget proposal that includes \$3.5 million and 40 positions to initiate a statewide culvert inspection and repair program. This proposal, however, does not include resources to continue to perform fish passage assessments such as those done in a pilot North Coast study, released in February of this year. This study covered three north coast counties, but a similar program is needed for the rest of the state's coastal streams bearing anadromous fish.

Previous Subcommittee Direction. At the April 11 meeting of the Subcommittee, staff was directed to work with Subcommittee No. 4 to direct Caltrans to submit, as part of their proposed culvert inspection program, a more refined estimate for costs associated with completing fish passage assessments on priority coastal watersheds and stream crossings, including funding sources for these activities.

Update. On April 12 a letter was transmitted to Caltrans requesting more information and an estimate of costs associated with including fish passage assessments of priority coastal watersheds as part of their culvert inspection program. In a response from Caltrans dated April 20, the department indicated that it would cost between \$6 and \$9 million over the next four years to complete the highest priority coastal fish passage assessments (\$1.5 million to \$2.25 million annually). The department also indicates that it would cost an additional \$3 to \$6 million to complete fish passage assessments for the remainder of the coastal watersheds and \$4 to \$8 million for inland watersheds, again within four years.

In subsequent meetings with legislators, Caltrans' Director Kempton committed to targeting priority coastal watersheds for fish passage assessment as part of its statewide culvert maintenance budget proposal that is currently being considered by Senate Budget Subcommittee No. 4 and through its ongoing culvert maintenance activities. It was mutually agreed that a comprehensive approach among state agencies to address fish passage was desirable. Therefore, Caltrans has committed to working with other state agencies such as the Coastal Conservancy to share information and target their activities for the greatest success.

Staff Recommendation. Staff recommends that the Subcommittee direct staff to work with Subcommittee No. 4 and the administration to draft budget bill control language that directs Caltrans to target its statewide culvert assessment projects to priority coastal watersheds, so that significant progress on the highest priority watersheds is realized within four years.

3790 Department of Parks and Recreation

1. Disaster Repairs—Technical Bond Issue

Background. The 2004 budget provided \$6.8 million in Proposition 40 bond funds to rebuild facilities damaged by the 2003 San Simeon earthquake and Southern California fires. Approximately \$6 million was allocated for repairs to the Cuyamaca Rancho State Park and the Silverwood Lake State Recreation Area, both parks damaged by the Southern California fires. Approximately \$750,000 was allocated for damage caused to state park facilities from the San Simeon earthquake. In both cases, these events were declared a federal disaster and projects are eligible for 75 percent of total costs from the Federal Emergency Management Agency (FEMA).

Governor's Budget. The Governor's budget proposal includes \$6.2 million in Proposition 40 bond funds to fund the state's share of repairs at the state park facilities damaged by the San Simeon earthquake and Southern California fires. These are the same funds that were provided in 2004. However, only \$600,000 of these funds will be expended in the current year due to delays in coordinating with FEMA on the needed repairs. The department will be able to encumber the funds proposed in the 2005 budget through 2007-08.

April Finance Letter. In order to settle up the Proposition 40 bond fund condition, the Governor has submitted an April Finance letter that proposes to revert \$6.2 million of the Proposition 40 bond funds allocated in the 2004 budget. These funds were technically available to the department to expend until 2006-07. Therefore, without this reversion, there would technically be two appropriations for the same funds (the appropriation made in 2004 and the proposed appropriation in the 2005 budget), which would have resulted in an overdrawn fund condition. This proposal would correct this technical issue and settle up the Proposition 40 bond fund condition.

Staff Recommendation. Staff recommends that the Subcommittee approve the amendments proposed in the Governor's April Finance letters.

2. Empire Mine Pollution Mitigation Study

April Finance Letter. The letter proposes \$500,000 from the General Fund to support consulting contracts to study the presence of contaminants at the Empire Mine State Historic Park. The park is the site of major mining activities that operated for over 100 years. It is known that there are various contaminants that cause potential health risks present at the park, including asbestos, radon, and various metals. The studies funded include a human health risk assessment and a storm water pollution prevention plan.

The department has indicated that a notice of violation and intent to file suit under the Federal Water Pollution Control Act was received by the department in the fall of 2004 related to water and soil contamination at the Empire Mine State Historic Park. Receipt of this notice, as well as industrial storm water permit requirements by the State Water Resources Control Board, have necessitated this request.

LAO Alternative. The LAO has identified the Surface Mining and Reclamation Act (SMARA) fund as an alternative to the General Fund for funding this activity. The SMARA account funds are available for the remediation of abandoned mines. The LAO finds that there is a \$2 million fund balance projected for 2005-06 and that funds could be used on a one-time basis without impacting other state programs. Under current law, SMARA funds are only available to remediate abandoned mines that were operational after 1976. Legislation (SB 1110), to amend current law to allow for the remediation of historic abandoned mines, is currently being considered. Nevertheless, the LAO indicates that “notwithstanding” language could be included in budget bill language that would allow for the use of SMARA funds to support this activity.

Staff Comments. Staff is concerned that utilizing SMARA funds for this activity would reduce available funds to remediate safety concerns related to abandoned mines not owned by the state. Many of these mines pose significant threats to human health.

Staff Recommendation. Staff recommends that the Subcommittee direct staff, the LAO, and the administration to evaluate the opportunity costs of using SMARA funds for planning and environmental assessment of the Empire Mine State Park.